



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 of the Private Housing (Tenancies) Act 2016**

**Chamber Ref: FTS/HPC/CV/19/0983**

**Re: Property at 18 Abernethy Avenue, West Craigs, Blantyre, Glasgow, G72 0FY (“the Property”)**

**Parties:**

**Mr Ian Beaver, Mrs Lian Rui Niu, Jose Antonio Tavio No 19, URB Chayofita Flat 16DG3, Costa Del Silenco, Arona, Tenerife, 38630, Spain (“the Applicant”)**

**Mrs Karina Brown, 18 Abernethy Avenue, West Craigs, Blantyre, Glasgow, G72 0FY (“the Respondent”)**

**Tribunal Member:**

**David Preston (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for eviction be granted in favour of the applicant**

**Background:**

1. An application under Rule 109 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) was made on 27 March 2019. The application was based on ground 12 of Schedule 3 of the Private Housing (Tenancies) Act 2016.
2. The application was accompanied by: Private Residential Tenancy dated 17 October 2018; Notice to Leave dated 18 February 2019; Certificate of Service dated 20 February 2019; Landlord’s evidence including bank statements; summary rent statement; and Notice to the local Authority under section 11 of the Homelessness etc (Scotland) Act 2004;
3. By Decision dated 8 April 2019 a Legal Member of HPC having delegated power for the purpose, referred the application under Rule 9 of the Regulations to the

tribunal. A letter of Intimation with Notice of the Case Management Discussion to be held on 29 May 2019 at 14.00 in the Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT together with the application and case papers was served on the tenant by Sheriff Officers on 24 April 2018. The tribunal was provided with a copy of the Sheriff Officer's Certificate of Intimation thereof.

4. On 21 May 2019 the applicants' representative submitted an email from the applicants confirming that no further rent had been paid and requesting that the additional arrears should be added to the outstanding rent.
5. The tribunal was satisfied that all relevant documents and intimation of today's hearing had been duly served on the respondent and that the requirements of Rule 24 had been complied with.

### **Case Management Discussion**

6. Mr John Hardy of HAP Lettings Ltd appeared on behalf of the applicants. There was no appearance by or on behalf of the respondent. The tribunal was satisfied that the respondent had been given due notice of the CMD and had voluntarily elected to waive her right to be present or be represented and was content to proceed in her absence.
7. The tribunal discussed the rent statement with the applicant's agent which demonstrated to the satisfaction of the tribunal that the last payment of rent by the respondent had been made on 17 November 2018, leaving 4 months arrears up to the date of the application and 6 months arrears up to the date of the hearing.
8. Accordingly, the tribunal was satisfied that as at the date of the application a sum in excess of three consecutive months rent had accrued and had remained outstanding for a period in excess of three months.
9. The tribunal was satisfied that the respondent had received all relevant paperwork and had voluntarily waived her right to appear at the tribunal.

### **Reasons for Decision**

10. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, to determine the application at the CMD.
11. As at the date of the application (27 March 2019), arrears of rent in excess of three months had accrued. No payments had been made since that date, leaving arrears in excess of a sum equivalent to one month's rent in arrears for a continuous period up to the date of the CMD of three or more consecutive months.

## Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

D Preston

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Legal Member/Chair

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Date

29/5/19.